

Ives, Erik

-----Original Message-----

From: David Page [mailto:dpage@riggsabney.com]
Sent: Monday, July 07, 2008 7:59 AM
To: Jorgensen, Jay T.; Ward, Liza
Cc: George, Robert; Bond, Michael R.
Subject: RE: Teleconference(s) on plaintiffs' models

Jay I do not agree with your statement of the "issue" nor do I agree with your assumptions and predicates. All of the argument (i.e., "recap") does nothing to facilitate the resolution of your problem and our effort to accommodate your expert. Also, the phone conferences are not to be recorded. This is not formal discovery. We are trying to accommodate your expert not defense counsel. We have gone above and beyond what would normally be provided under the Rules trying to accommodate the many questions your model expert has raised. Frankly, my experts tell me that a reasonably knowledgeable grad student could have had their models running in a couple of days.

We are offering the telephone conferences to allow you expert the opportunity to ask questions of Drs Engel and Wells on how to run the models. If that is acceptable to the Defendants please let me know and I will check on times this week during the morning hours.

David.

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-----Original Message-----

From: Jorgensen, Jay T. [mailto:jjorgensen@sidley.com]
Sent: Friday, July 04, 2008 3:31 PM
To: Jorgensen, Jay T.; David Page; Ward, Liza
Cc: George, Robert; Bond, Michael R.
Subject: RE: Teleconference(s) on plaintiffs' models

David,

You can see I left out some information in the email below. I meant to say that Defendants' experts currently can participate in the teleconference(s) any morning this coming week. We'd like to do it as soon as possible.

Best,

Jay

-----Original Message-----

From: Jorgensen, Jay T.
Sent: Friday, July 04, 2008 4:22 PM
To: David Page; Ward, Liza
Cc: George, Robert; Bond, Michael R.
Subject: Teleconference(s) on plaintiffs' models

Dear David,

Thanks for talking with Robert George and I yesterday. I write to follow up on that call. To recap, we agreed that plaintiffs' models are made up of several files and that those files must be assembled in a certain manner to reproduce the models on which plaintiffs' experts reply. Robert and I explained that defendants want to ensure that the experts for both sides assemble plaintiffs' models in the same manner. If all the experts assemble your models in exactly the same manner, we will avoid the situation where the experts are unable to assist the court because they are working from different models. This logistical concern about how to assemble and run the models is different from critiquing the substance of the models and the data and assumptions they contain. The models must be assembled before they can be evaluated.

To help resolve this issue, you offered to arrange a teleconference (or teleconferences) between Dr. Bierman and Drs. Wells and Engel. The teleconference(s) would review the manner in which the models are assembled, but you noted that plaintiffs' experts would not address the assumptions, data, and other substance of their models.

We have conferred with the other defendants and accept the offer to have our modeling experts talk via phone. As we noted in today's call, it's possible that a teleconference will not be sufficient to provide the complete information on how to assemble the models. But it's worth a try, particularly if it can get us to a quicker resolution. Dr. Bierman can participate in teleconference(s) [insert date/times]. Please let us know which of these times works best for you, and whether you would like to do separate calls with Drs. Wells and Engel.

As we noted on our call, the process of assembling these models is complex. We want to make sure all of the experts are working from the same materials. For that reason, we propose to have a court reporter listen to the teleconference(s) and prepare a transcript. This would not be sworn testimony, but would provide accurate notes of what is said during the call for the experts to rely upon as they work with plaintiffs' models. Of course we will provide you with a copy of the transcript.

I hope you have a great 4th. The plans you were describing sounded relaxing.

Jay

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